

SJN/DGM/KDL



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/213,138 12/16/98 LOPEZ

G ICUMM.110A

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EXAMINER

WASYLCHAK, S

ART UNIT

PAPER NUMBER

2165

DATE MAILED:

04/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

DOCKETED ON:	4-16-01
BY:	SN
VERIFIED BY:	<i>[Signature]</i>
ACTION:	Final Amend Due June 9, 2001
DUE DATE:	Notice of Appeal Due July 9, 2001
	Statutory Period Ends
FINAL DEADLINE:	Oct. 9, 2001
ATTY:	SJN/DGM/KDL
ATTORNEY VERIFICATION OF DUE DATE AND FINAL DEADLINE:	

Office Action Summary

Application No. 09/213138	Applicant(s) LOPEZ et al
Examiner WASYLCHAK	Group Art Unit 2165

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on 12/28/00
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-16 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-16 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

DETAILED ACTION

Response to Amendment

1. As per cl 15 and 16:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 15 is rejected under 35 U.S.C. 102(e) as being anticipated by the article "SingleShop E-Shopping Service Powers iMom.com."

A product browsing system comprising:

-a server computer having a network connection; / above article: p 1, L 14-p 2, L

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-a product database including first data representing a product, . . . server computer; and / above article: p 2, L 11-17

-a dynamic page file ...said network connection. / above article: p 1, L 14-p 2, L

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Claim 16 is also rejected under 35 U.S.C. 102(e) as being anticipated by the article "SingleShop E-Shopping Service Powers iMom.com."

A method for retrieving information about a product using information about another product, said method comprising:

- a step for storing . . . products; / above article: p 1, L 14-p 2, L 16
- a step for storing . . . second set of products; / p 1, L 1-7
- a step for storing an association . . . product equivalency; / p 1, L 14-17
- a step for establishing . . . server computer; / p 1, L 17-p 2, L 2
- a step for transmitting. . . server computer; and / p 2, L 11-17

Response to Remarks:

CL 1: the MSC Dictionary gives a genus definition of any type of data, e.g., products, prices, etc that can be used in a database and it does not exclude a product database.

Applicant states on p 3, L 9 that claim 1 does not include the term "comparison feature". Therefore, Exr. **must** establish the metes and bounds of claim 1 to **exclude** any comparison feature by Applicant's self-admission.

With respect to "dynamic page": Exr. is not persuaded. The definition of dynamic page states in part that it is an HTML document, which the average web site developer or internet programmer knows will generally have hyperlinks; Applicant is aware of such by his usage of the term in claims 4 and 7 for queries or other sundry nexus attributes to link data.

Exr. is not persuaded by the holding of *In re Jones* or *ACS* or *In re Fine* or *Interconnect* or *Ex parte Levengood* or *Ex parte Obukowitz* or *Hodush* because each is gravely factually distinguishable from the case at hand.

That Exr. used hindsight is speculation. However, at this point in time, Exr. is not seeking empirical proof or affidavit from Attorney attesting to Exr.'s thought processes or reasoning during examination of the patent application.

Claims 2-6 are rejected by their dependence upon rejected claim 1 and original reasoning.

Cl 7 stands rejected. Refer to similar reasoning under claim 16 with the SingleShop article or by first action reasoning.

Cl 8-10 are rejected by their dependence upon rejected claim 7 or first action reasoning.

Cl 11 remains rejected for similar reasons as claim 1 or first action reasoning.

The underlying, common, *interlocking* thread of suggestion or motivation or advantage to combine all MSC definitions and Official Notices can be readily subsumed by this statement: an efficient browser system with inputs consisting of all product data, transfer functions consisting of searching, comparing and purchasing, and an output of minimizing consumer cost while maximizing customer satisfaction. Whether 'nine MSC definitions' and 'four Official Notices' can to be combined is not to be decried by arbitrary numerical ceilings that attempt to create a fictitious numerical apogee, for it is in the treatment of an invention as a unified modular system within which suggestions, motivations and advantages reside, both implicitly and explicitly, as well as inherently and contextually.

CL 12 and 13 are rejected by their dependence upon rejected claim 11 or first action reasoning.

CL 14 remains rejected by first action reasoning.

Applicant states on p 13, last line to p 14, L 2 that "The Article teaches a system wherein users can search, select, and sort products based on different given categories such as brand names, product types, and price." Therefore, Exr. *must* establish the metes and bounds of claim 14 to **exclude** any system where users can search, select, and sort products based on different given categories such as brand names, product types, and price by Applicant's self-admission.

Conclusion

All comments from the previous action are hereby incorporated by reference.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications


Art Unit: 2165

from the examiner should be directed to Exr. Steven R. Wasylchak, whose telephone number is (703) 308-2848. The examiner can normally be reached on weekdays from 7:00 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Mullin, can be reached at (703) 305-1065. The fax phone number for Art Unit 2165 is (703) 308-1396.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 305-3900.

 4/4/01
SRW DATE


VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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